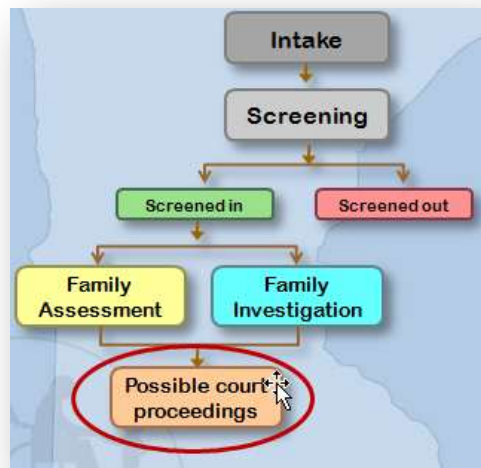


Module 7 Chapter 4: Juvenile Court Petitions and Proceedings

This chapter focuses on juvenile court petitions and proceedings you are most likely to encounter in child welfare and child protection. Partnering with the court is crucial to ensuring the safety, permanency and well-being of children.

This chapter does not address court proceedings for children in voluntary placement. You will learn more about voluntary placements and proceedings in WBT Module 12 and Classroom Module 3.



Minnesota Courts

Juvenile Court is one of many courts that make decisions, from the federal level down to state district courts and tribal courts.

Minnesota Courts consist of District Courts, Court of Appeals, and the Supreme Court.

District Court – Most child welfare court experience occurs here. District courts govern cases including traffic offenses, civil and family conflicts, and murder trials. Some District Courts have separate divisions, such as criminal, civil, probate, family, and juvenile or special courts. A

District Court is located in each Minnesota county; the state is divided into 10 judicial districts for administrative purposes. To find out which district your county is in, a link to the Minnesota Courts is available on the website.

Court of Appeals – Also called Appellate Court. Reviews decisions of lower courts or agencies.

Supreme Court – The highest court in the state; it reviews selected cases from the Court of Appeals with the purpose of setting precedents, clarifying issues, resolving statutory conflicts, and answering constitutional questions.

Tribal Court – A court administered through self-government of an American Indian tribe. Each tribal court has exclusive jurisdiction over any child custody proceeding involving an Indian child. You will learn more about tribal sovereignty, jurisdiction and courts in Module 11.

Juvenile Court

Child protection cases are handled by the Juvenile Court. This court's primary responsibility is to uphold the constitutional and legal rights of both the parents and the child, utilizing Minnesota law and the Rules of Juvenile Protection Procedures. Judicial decisions are based on "the best interests of the child" standard. Judges carefully weigh facts from testimony, written reports, and exhibits as part of the decision-making process to determine the best interests of the child.

A link to an Index of Juvenile Court Rules is available on the [Minnesota Courts Website](#). You will find references to various Rules throughout this chapter.

The Juvenile Court:

- Ensures rights for parents and children
- Grants legal authority for CPS to intervene
- Gives CPS custody and care responsibility
- Makes findings of fact regarding the need for protective services and supervision
- Orders protective supervision, out-of-home placement and services
- Appoints guardians *ad litem* and public defenders when appropriate
- Addresses permanency
- Shares responsibility with the agency for achieving child safety, permanency and well-being
- Advises parents of permanency timelines
- Monitors case progress and timelines through review hearings
- Terminates or limits parental rights.

Basic Legal Terms

While you aren't expected to become an expert on legal terminology, you do need to become comfortable with certain legal definitions. The following screens provide simplified explanations, with important links and attachments.

Petition: A formal written application made to a court that requests action on a certain matter.

Hearing: A legal proceeding held before a judge where evidence and arguments are presented in an effort to resolve a disputed issue.

Trial: A formal adversarial proceeding to hear evidence and decide legal issues and claims.

All courts must provide **due process**. Simply defined, due process is the idea that legal proceedings must be fair and balance the interests of governments and citizens.

Due process is assured through the right to notice of hearings, right to participate in hearings, right to counsel, and the right to appeal. Due process is denied when a person is treated unfairly by the courts.

All hearings have **parties** and/or **participants**. A person's status as a party or a participant determines the right to notice and the right to participate in the hearing.

From the website, a Parties and Participants document is available. You may also refer to Minnesota Rules of Juvenile Protection Procedure 21.01 and 22.02 for a complete list of persons eligible to be parties or participants to a juvenile protection matter.

Parties are typically issued a summons and entitled to receive notice of the hearing. Participants are entitled to receive notice. As you will see in the attachment, parties have more rights than participants.

A **summons** is a court document for and to a specific person which orders that person to appear in court. A **notice** is a court document that notifies a person of the specific time and place of a hearing.

A parent with a legally recognized parent and child relationship must be provided with a right to be heard in any review or hearing held with respect to the child, but this does not automatically confer party status on that parent (§260C.163).

Prima facie refers to evidence and means “on initial examination or consideration; on the face of it; sufficient in law to establish a case or fact unless disproved.”

Ex Parte refers to a court order made on behalf of only one of the parties involved in a court case; it is generally temporary or interim in nature.

Example: An order for protection in domestic violence cases is often initially granted as an *ex parte* order based on a *prima facie* showing of the evidence. In other words, based on the victim's statement in the petition for the protection order, the court temporarily orders the batterer to stay away from the victim until the court can schedule a full hearing in the matter.

Parent, as defined in Minnesota §260C.007, is a person who has a legal parent and child relationship with a child. It includes these relationships: mother-child, father-child, and adoptive parent-child.

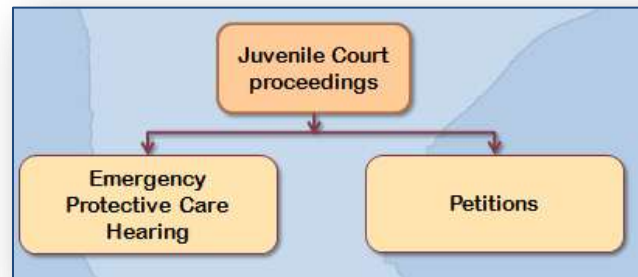
The legally recognized relationship between the mother and child is based on the mother giving birth to the child. The legally recognized relationship between the father and child is more complicated with definitions and differences in the legal rights of custodial and noncustodial parents. From the Module 7 Attachments tab, print Fathers and Their Rights in Minnesota to learn more about the legal definitions and rights of fathers depending on their legal status.

Locating Parents for Legal Proceedings

Minnesota §260C.150 requires county agencies to make diligent efforts to identify and locate both parents of any child involved in a court action. It is important to document your efforts in SSIS.

From the Module 7 Attachments tab, print and review the Checklist for Locating and Contacting Non-Resident Parents. You will find this to be a useful practice tool.

The Court Process Begins



The court process begins with either an Emergency Protective Care (EPC) hearing or the filing of a petition when child safety risks are high but an emergency placement is not required. First we'll examine emergency protective care.

Emergency Protective Care

Recall that children can only be taken into custody by law enforcement, a court order, or a probation officer in certain situations. Review Minnesota §260C.175 for more information.

If a child is taken into custody and placed on a 72-hour hold by law enforcement, only law enforcement, the county attorney, the court, or the social services agency may release the child prior to the expiration of the hold. In order for social services to do so, the agency must have conducted an assessment, and developed and implemented a safety plan with the family.

If the child is in custody through a court order, the child may only be released by the court. In most cases, the court imposes restrictions on the child and his or her caregiver when the child is released.

If an EPC hearing to continue or terminate the placement does not occur within 72 hours of the child being taken into custody, the child must be released.

The EPC hearing takes place in a District Court. Minnesota §260C.178 and Juvenile Court Rule 30 provide EPC hearing details.

Key points include:

- The hearing must be held within 72 hours of taking the child into custody, not including Saturdays, Sundays or legal holidays.

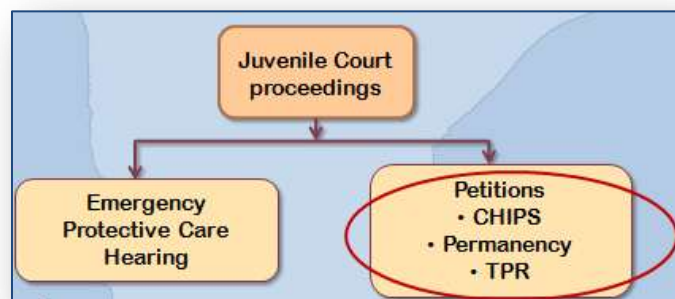
- A *prima facie* showing of the evidence indicates the child should remain in emergency protective care and a continuance of the placement is necessary for the child's protection or to obtain more evidence.
- A CHIPS Petition must be filed before or at the hearing.

From the Module 7 Attachment tab, print and review Juvenile Court Hearings. This chart provides detail about EPC hearings, as well as other hearings addressed later in this chapter.

After an EPC hearing, the court must issue an order based on findings of fact. The order must address:

1. The child's placement – options include to continue in protective care, return home with conditions to assure safety, return home with reasonable conditions of release, return home with no conditions, or placement with the noncustodial parent with conditions
2. Conditions on the parent, legal custodian or other parties
3. Services to be provided
4. Terms of visitation
5. Parent's responsibility for cost of care
6. Whether reasonable or active efforts to prevent placement were provided.

Petitions



Remember, a petition is a formal written application made to a court that requests action on a certain matter. There are several types of petitions you may encounter. The most common include:

- Child in Need of Protection or Services (CHIPS)
- Permanency Petitions
- Termination of Parental Rights (TPR).

Each petition results in a hearing. The next several screens provide a brief look at each type of petition and hearing.

Consult with your supervisor to learn your agency's policies and procedures for drafting and filing these petitions.

CHIPS Petition

The CHIPS petition is the most frequently encountered of all child welfare petitions. A CHIPS petition may be filed in an effort to compel parents and families to participate in services to mitigate safety and maltreatment risks. Sometimes a CHIPS petition is filed after a child is removed from his or her home, and in conjunction with an EPC hearing.

CHIPS activities have specific timelines. From the website, a CHIPS to Permanency Timeline document is available.

Permanency Petition

There are three primary permanency options that may be pursued when a Permanency Petition is filed. The options include:

- Transfer of Permanent Legal and Physical Custody (TPLPC), which must follow the requirements of Minnesota §518.156 and have a proposed relative co-petitioner
- Long-term Foster Care
- Foster Care for a Specified Period of Time.

TPR Petition

The rights of parents can be terminated voluntarily or involuntarily.

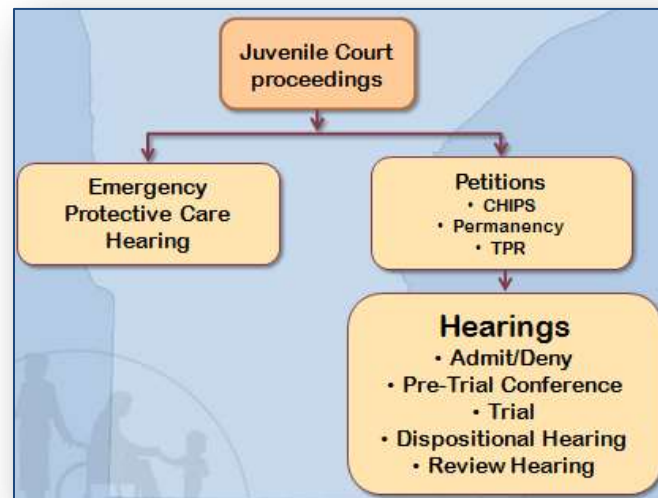
Voluntary termination occurs with the written consent of the parent who for good cause desires to terminate his or her parental rights. The court must agree to the termination.

There are many grounds for involuntary termination of parental rights, including abandonment and neglect. Refer to Minnesota §260C.301.

Following a TPR, guardianship and legal custody are transferred to the commissioner of human services, a licensed child-placing agency or an individual who is willing and capable of assuming appropriate duties and responsibilities to the child. The guardian has the responsibility to make decisions on behalf of the child.

Now let's look at the details for each type of hearing required for CHIPS, TPR or Permanency Petitions.

Hearings



Petitions result in court hearings. Hearings you may encounter in juvenile court include:

- Admit/Deny
- Pre-Trial Conference
- Trial
- Dispositional Hearing
- Review Hearings.

As you read through the following information, refer to the document you printed earlier in this chapter, Juvenile Court Hearings, for additional detail.

Admit/Deny Hearing

The purpose is to admit or deny the statutory grounds set forth in the CHIPS, TPR or Permanency petition. The court must determine if there is a *prima facie* basis that the agency has provided reasonable or active efforts.

Parents may admit to a portion of what is in a petition. In these cases, the defense attorney and tribal or county attorney reach an agreement to admit to certain, but not all, of the identified issues. Parents may also admit to all of the alleged issues. In either of these situations, the admission negates the need for pre-trial activities and other trials.

Pre-Trial Conference

Most cases include these two primary pre-trial activities:

1. Discovery: Allows parties to obtain and possess all relevant evidence prior to trial, including witnesses, experts, and agency case notes and records that are relevant to the case.
2. Pre-Trial Conference: The purpose is to narrow the presenting issues, reach a settlement, establish a process for all remaining issues, identify and resolve discovery matters, exchange witness lists and a summary of their testimony, and provide all parties and the court with updated information.

Trial

Trials are held to determine if statutory requirements in the petition are proved. The trial presents evidence that the judge reviews and uses to make findings of fact.

Refer to the Juvenile Court Hearings attachment to view timelines related to each petition, and burdens and standards that exist for all juvenile court trials.

In a CHIPS trial, the court may either dismiss, adjudicate – make findings based on the evidence – or withhold adjudication. If the court adjudicates, it determines that the child is in need of protection or services. If the case is dismissed, it means that clear and convincing evidence was not presented and the child welfare agency no longer has the authority to intervene.

Adjudication

Adjudicate means the court settles or determines an issue by making findings of fact based upon presented evidence. Withholding of adjudication can't exceed 90 days. A second hearing must be held within 90 days to either dismiss or adjudicate the petition.

Dispositional Hearing

The purpose of dispositional hearings is to finalize the determination and plan for the child and family. This hearing occurs immediately after the petition was adjudicated – via a trial or settlement – or within 10 days.

Disposition refers to the court entering an order that determines where the child – who has been determined to be in need of protection or services, or neglected and in foster care – will be placed.

Review Hearing

Review hearings recap the progress of the case, afford an opportunity to adjust services to address progress or changing needs, monitor progress against permanency timelines and address barriers to reunification. The Review hearing also provides the opportunity to ensure the parent knows the possible outcomes of failing to work the case plan.

Alternate Dispute Resolution

At any point in the court process for CHIPS, TPR or Permanency, the court may order participation in one of three alternative dispute resolutions to resolve all or part of the matter.

Family Group Decision Making – FGDM

Recall from Module 5 that FGDM is a strengths-based approach that helps families and child welfare agencies address primary areas of concern, such as safety and transitioning to adulthood.

Parallel Protection Process – P3

The P3 is a family case planning conference (FCPC) under the auspices of juvenile court in which professionals, parents, and children attempt to reach a settlement agreement on the child protection case before the court.

Mediation

Mediation is a process in which a neutral third-party, a mediator, promotes and facilitates an attempt to obtain a settlement of a dispute between parties.

Reaching an agreement through one of these processes allows the family to impact a court proceeding by entering into a voluntary agreement as to what should happen in their case to assure child safety, permanency and well-being, possibly avoid lengthy court cases, and potentially expedite case outcomes.

Reasonable Efforts

It is a general rule for the court to consider reasonable efforts at each child protection proceeding. The court must document that the child welfare agency provided reasonable efforts, or active efforts in the case of Indian children, to prevent placement or eliminate the need for placement and reunify families. The paramount concern behind reasonable efforts is the child's best interest, health, and safety.

The court, in determining that reasonable efforts have been made, considers whether services to the child and family were:

- Relevant to the safety and protection of the child
- Adequate to meet the needs of the child and family
- Culturally appropriate
- Available and accessible
- Consistent and timely
- Realistic under the circumstances.

The court may determine that reasonable efforts are not required under certain circumstances.

You will learn more about active efforts to be used in ICWA cases in Module 11.

If the agency fails to make reasonable efforts, there may be consequences to the agency, worker and certainly the child. These consequences may include:

- The child continuing in out-of-home placement if further preventive or reunification efforts can't permit the child to safely return home.
- Loss of federal funding unless the court's finding can be changed within 30 days.
- In termination of parental rights cases, termination may not be granted.
- The case worker may lose credibility with the court for that case, and perhaps future cases.
- The case worker is likely to experience greater scrutiny in future cases.

Summary

As you can see, your involvement with the court system is a complex but important part of your responsibilities. Although most of your cases probably won't go to court, partnership with the court system is basic to your job. Since the county or tribal attorney represents you and your agency in court proceedings, it is important for you to establish a good working relationship.

The State Administrator's Office of the Minnesota Judicial Branch developed a DVD entitled *In the Best Interest of Your Child*, which was distributed to all county social services agency directors. The DVD is intended for parents to view prior to their first court hearing in a child protection matter. You may also find it helpful as it summarizes some of the information provided in this chapter. Click the link to access the video.

[Minnesota Courts website](#)

Additional Resources

Additional links to the following resources are available on the website:

Working with the Courts in Child Protection Child Neglect and Abuse User Manual Series at [Child Welfare Information Gateway](#)

- A Framework for Safety in Child Welfare at [American Public Human Services Association](#)

Next Steps

The Module 7 Transcript is available from the website along with:

- Parties and Participants
- Fathers and Their Rights in Minnesota
- CHIPS to Permanency Timeline
- Checklist for Locating and Contacting Non-Resident Parents
- Juvenile Court Hearings.

Consult with your supervisor about your agency's policies and procedures regarding petitions, and any questions about this chapter.

Complete the Module 7 Post-Test and print your results.

Remember to check the website and print the documents labeled for classroom use. You will need to bring those documents to class with you.

When you are ready, begin Module 8.